

05-24-06
AF

IFW 1731



PATENT
Customer No. 22,852
Attorney Docket No. 9140.0014-00

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:)
)
DEMARAY, Richard E. et al.) Group Art Unit: 1731
)
Application No.: 09/903,081) Examiner: HOFFMAN, John M.
)
Filed: July 10, 2001) Confirmation No.: 1225
)
For: AS-DEPOSITED PLANAR OPTICAL)
WAVEGUIDES WITH LOW)
SCATTERING LOSS AND)
METHODS FOR THEIR)
MANUFACTURE)

MAIL STOP AF
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

FIFTH SUPPLEMENTAL INFORMATION DISCLOSURE STATEMENT
UNDER 37 C.F.R. § 1.97(d)

Pursuant to 37 C.F.R. §§ 1.56 and 1.97(d), Applicants bring to the attention of the Examiner the documents on the attached listing. This Information Disclosure Statement is being filed after a Final Action, and is accompanied by a fee of \$180.00 as specified under § 1.17(p) and a certification as specified under § 1.97(e). Applicants respectfully request that the Examiner consider the listed documents and indicate that they were considered by making appropriate notations on the attached form.

Each document listed in this Information Disclosure Statement was first cited in a communication from the United States Patent Office in a counterpart foreign application, and

this Information Disclosure Statement is being filed within three months of the mailing date of that communication.

The Office Actions and Responses are being submitted in compliance with the holding in *Dayco Products, Inc. v. Total Containment, Inc.*, 329 F.3d 1358, 66 U.S.P.Q.2d 1801 (Fed. Cir. 2003), stating that an "adverse decision" by another examiner may meet the materiality standard under the amended Rule 56, and thus, Applicant should disclose prior rejections of "substantially similar claim[s]" to the Office. Accordingly, although Applicants are not representing that the Office Actions in the co-pending applications are material to the present application and are not admitting that any of the other claims are substantially similar, out of an abundance of caution, Applicants have listed the substantive Office Actions filed in co-pending applications on the enclosed PTO/SB/08.

Copies of the listed foreign and non-patent literature documents are attached. Copies of the U.S. patent publications are not enclosed.

Applicants respectfully request that the Examiner consider the listed documents and indicate that they were considered by making appropriate notations on the attached form.

This submission does not represent that a search has been made or that no better art exists and does not constitute an admission that each or all of the listed documents are material or constitute "prior art." If the Examiner applies any of the documents as prior art against any claims in the application and Applicants determine that the cited documents do not constitute "prior art" under United States law, Applicants reserve the right to present to the office the relevant facts and law regarding the appropriate status of such documents.

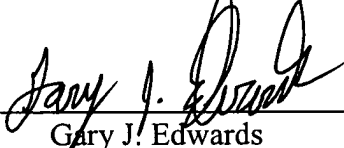
Applicants further reserve the right to take appropriate action to establish the patentability of the disclosed invention over the listed documents, should one or more of the documents be applied against the claims of the present application.

If there is any fee due in connection with the filing of this Statement, please charge the fee to our Deposit Account No. 06-0916.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, L.L.P.

Dated: May 22, 2006

By: 
Gary J. Edwards
Reg. No. 41,008

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IDS Form PTO/SB/08: Substitute for form 1449A/PTO

**INFORMATION DISCLOSURE
STATEMENT BY APPLICANT**

(Use as many sheets as necessary)

Sheet

1

of

2

Complete if Known

| | |
|------------------------|---------------------|
| Application Number | 09/903,081 |
| Filing Date | July 10, 2001 |
| First Named Inventor | DEMARAY, Richard E. |
| Art Unit | 1731 |
| Examiner Name | HOFFMAN, John M. |
| Attorney Docket Number | 9140.0014-00 |

U.S. PATENTS AND PUBLISHED U.S. PATENT APPLICATIONS

| Examiner Initials [*] | Cite No. ¹ | Document Number Number-Kind Code ² (if known) | Issue or Publication Date MM-DD-YYYY | Name of Patentee or Applicant of Cited Document | Pages, Columns, Lines, Where Relevant Passages or Relevant Figures Appear |
|--------------------------------|-----------------------|---|--|--|---|
| | | US 5,472,795 | 12/05/95 | Atita | |
| | | US 6,306,265 B1 | 10/23/01 | Fu et al. | |
| | | US 6,673,716 B1 | 01/06/04 | D'Couto et al. | |
| | | US 2002/0115252 A1 | 08/22/02 | Haukka et al. | |
| | | US 2004/0043557 A1 | 03/04/04 | Haukka et al. | |

Note: Submission of copies of U.S. Patents and published U.S. Patent Applications is not required.**FOREIGN PATENT DOCUMENTS**

| Examiner Initials [*] | Cite No. ¹ | Foreign Patent Document Country Code ³ Number ⁴ Kind Code ⁵ (if known) | Publication Date MM-DD-YYYY | Name of Patentee or Applicant of Cited Document | Pages, Columns, Lines, Where Relevant Passages or Relevant Figures Appear | Translation ⁶ |
|--------------------------------|-----------------------|--|--------------------------------|--|---|--------------------------|
| | | | | | | |

NON PATENT LITERATURE DOCUMENTS

| Examiner Initials [*] | Cite No. ¹ | Include name of the author (in CAPITAL LETTERS), title of the article (when appropriate), title of the item (book, magazine, journal, serial, symposium, catalog, etc.), date, page(s), volume-issue number(s), publisher, city and/or country where published. | Translation ⁶ |
|--------------------------------|-----------------------|---|--------------------------|
| | | TOMASZEWSKI, H. et al., "Yttria-stabilized zirconia thin films grown by reactive r.f. magnetron sputtering," <i>Thin Solid Films</i> 287:104-109 (1996). | |
| | | Response to Final Office Action mailed April 14, 2006, in U.S. Appl. No. 10/291,179 (Atty. Docket No. 9140.0001-00). | |
| | | Office Action mailed April 27, 2006, in U.S. Appl. No. 10/291,179 (Atty. Docket No. 9140.0001-00). | |
| | | Office Action mailed March 22, 2006, in U.S. Appl. No. 10/101,863 (Atty. Docket No. 09140.0016-00). | |
| | | Office Action issued on March 9, 2006, in U.S. Appl. No. 10/954,182 (Attorney Docket No. 09140-0016-01000). | |
| | | Response to Office Action filed on May 15, 2006, in U.S. Application No. 10/101,341 (Attorney Docket No. 09140-0017-00). | |
| | | Response to Office Action filed March 2, 2006 in U.S. Application No. 10/789,953 (Attorney Docket No. 09140.0030-00). | |
| | | Office Action from Singapore Patent Office in Appl. No. 200505388-9, dated March 20, 2006 (Atty. Docket No. 9140.0030-00256). | |

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|--------------------|--|-----------------|--|
| Examiner Signature | | Date Considered | |
|--------------------|--|-----------------|--|

EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.

| | | | | | |
|---|---|----|---|-------------------------------|---------------------|
| IDS Form PTO/SB/08: Substitute for form 1449A/PTO INFORMATION DISCLOSURE STATEMENT BY APPLICANT <i>(Use as many sheets as necessary)</i> | | | | Complete if Known | |
| | | | | <i>Application Number</i> | 09/903,081 |
| | | | | <i>Filing Date</i> | July 10, 2001 |
| | | | | <i>First Named Inventor</i> | DEMARAY, Richard E. |
| | | | | <i>Art Unit</i> | 1731 |
| | | | | <i>Examiner Name</i> | HOFFMAN, John M. |
| Sheet | 2 | of | 2 | <i>Attorney Docket Number</i> | 9140.0014-00 |

| NON PATENT LITERATURE DOCUMENTS | | | |
|---------------------------------|--|---|--|
| | | Office Action mailed April 19, 2006 in U.S. Application No. 10/851,542 (Attorney Docket No. 09140.0033-00). | |

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|-----------------------|--|--------------------|--|
| Examiner Signature | | Date Considered | |
|-----------------------|--|--------------------|--|

EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.